
By: **Senators Kittleman and Astle**

Introduced and read first time: February 24, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Subtraction Modification - Military Retirement Income**

3 FOR the purpose of altering a certain subtraction modification under the Maryland
4 income tax for military retirement income over a certain period of time;
5 providing that retirement income that is included in a certain subtraction may
6 not be taken into account for purposes of a certain subtraction modification
7 allowed under the income tax for certain individuals who are at least a certain
8 age or who are disabled or have disabled spouses; providing for the application
9 of this Act; and generally relating to a subtraction modification for military
10 retirement income.

11 BY repealing and reenacting, without amendments,
12 Article - Tax - General
13 Section 10-207(a)
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Tax - General
18 Section 10-207(q) and 10-209
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 2003 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Tax - General**

24 10-207.

25 (a) To the extent included in federal adjusted gross income, the amounts under
26 this section are subtracted from the federal adjusted gross income of a resident to
27 determine Maryland adjusted gross income.

1 (q) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, THE subtraction under subsection (a) of this section includes [the first
3 \$2,500 of military retirement income received by an individual during the taxable
4 year, if the individual:

5 (i) is at least 55 years old on the last day of the taxable year; and

6 (ii) was an enlisted member of the military at the time of
7 retirement.

8 (2) The amount of the subtraction under paragraph (1) of this subsection:

9 (i) is reduced by 50% of the amount by which federal adjusted
10 gross income exceeds \$17,500; and

11 (ii) is reduced to zero if federal adjusted gross income exceeds
12 \$22,500] 100% OF MILITARY RETIREMENT INCOME RECEIVED BY AN INDIVIDUAL
13 DURING THE TAXABLE YEAR IF THE INDIVIDUAL WAS IN ACTIVE SERVICE OF ANY
14 BRANCH OF THE ARMED FORCES FOR 20 YEARS OR MORE.

15 (2) FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2009, THE
16 FOLLOWING PERCENTAGE OF MILITARY RETIREMENT INCOME RECEIVED BY AN
17 INDIVIDUAL DURING A TAXABLE YEAR IS SUBTRACTED UNDER SUBSECTION (A) OF
18 THIS SECTION:

19 (I) 20% FOR A TAXABLE YEAR ENDING AFTER DECEMBER 31, 2004,
20 AND BEGINNING BEFORE JANUARY 1, 2006;

21 (II) 40% FOR A TAXABLE YEAR ENDING AFTER DECEMBER 31, 2005,
22 AND BEGINNING BEFORE JANUARY 1, 2007;

23 (III) 60% FOR A TAXABLE YEAR ENDING AFTER DECEMBER 31, 2006,
24 AND BEGINNING BEFORE JANUARY 1, 2008; AND

25 (IV) 80% FOR A TAXABLE YEAR ENDING AFTER DECEMBER 31, 2007,
26 AND BEGINNING BEFORE JANUARY 1, 2009.

27 10-209.

28 (a) In this section:

29 (1) "employee retirement system" means a plan:

30 (i) established and maintained by an employer for the benefit of its
31 employees; and

32 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal
33 Revenue Code; and

34 (2) "employee retirement system" does not include:

- 1 (i) an individual retirement account or annuity under § 408 of the
2 Internal Revenue Code;
- 3 (ii) a Roth individual retirement account under § 408A of the
4 Internal Revenue Code;
- 5 (iii) a rollover individual retirement account;
- 6 (iv) a simplified employee pension under Internal Revenue Code §
7 408(k); or
- 8 (v) an ineligible deferred compensation plan under § 457(f) of the
9 Internal Revenue Code.

10 (b) [To] SUBJECT TO SUBSECTION (D) OF THIS SECTION, TO determine
11 Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at
12 least 65 years old or is totally disabled or the resident's spouse is totally disabled, an
13 amount is subtracted from federal adjusted gross income equal to the lesser of:

14 (1) the cumulative or total annuity, pension, or endowment income from
15 an employee retirement system included in federal adjusted gross income; or

16 (2) the maximum annual benefit under the Social Security Act computed
17 under subsection (c) of this section, less any payment received as old age, survivors, or
18 disability benefits under the Social Security Act, the Railroad Retirement Act, or both.

19 (c) For purposes of subsection (b)(2) of this section, the Comptroller:

20 (1) shall determine the maximum annual benefit under the Social
21 Security Act allowed for an individual who retired at age 65 for the prior calendar
22 year; and

23 (2) may allow the subtraction to the nearest \$100.

24 (D) RETIREMENT INCOME THAT IS INCLUDED IN THE SUBTRACTION UNDER §
25 10-207(Q) OF THIS SUBTITLE MAY NOT BE TAKEN INTO ACCOUNT FOR PURPOSES OF
26 THE SUBTRACTION UNDER THIS SECTION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2004, and shall be applicable to all taxable years after December 31, 2004.